



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 9, 1998

Ms. D'Ann Johnson
Assistant General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78706

OR98-0400

Dear Ms. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 112436.

The Texas Department of Banking (the "department") received a request for "copies of certain documents relating to a departmental promotional process." Specifically, the requestor seeks the following information:

- (1) I would like to know what percentage each area counted toward the overall score.
- (2) I would also like a copy of the scoring forms completed by each of the four persons acting as interviewers reflecting the interview questions and my responses to the interview questions.
- (3) I would also like to request the scores assigned by each of the interviewers to each area scored and the overall score assigned by each interviewer.
- (4) I would like to request my ranking on each of the interviewers to each area scored and the overall score assigned by each interviewer.

In response to the request, you submitted to this office for review the information which you assert is responsive. You state that "[t]he Department will furnish nonconfidential information to [the requestor], specifically items 1, 3, and 4." You claim that the "interview questions and answers" are excepted from disclosure under sections 552.101 and 552.122 of the Government Code.¹ We have considered the exceptions and arguments you raise, and have reviewed the information submitted.

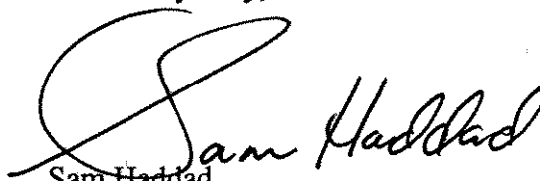
¹We do not believe that section 552.101 of the Government Code is applicable to the information at issue.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

You state that "[t]he questions at issue were carefully designed for use in managerial and highly technical positions within the Department." You also indicate that the department will use the submitted information to evaluate applicants in future interviews. Moreover, you assert that release of the questions and the requestor's answers to those questions "would seriously impair the Department's evaluation and testing process and compromise the effectiveness of future examinations." We conclude that only some of the submitted interview questions test an individual's or group's knowledge or ability in a particular area. Questions 1 through 20 may be withheld under section 552.122; however, questions 21 through 31 do not appear to test an individual's or group's knowledge. Next, we consider whether the department must release the requested "written answers" to test questions 1 through 20. In this instance, we conclude that a release of the written responses to test questions 1 through 20 would reveal the substance of each "test item." Therefore, the department may withhold the submitted test questions and the corresponding written answers for questions 1 through 20 under section 552.122(b). The remaining information may not be withheld from the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 112436

Enclosures: Submitted documents

cc: Mr. Shirley L. Taylor
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Carrollton, Texas 75006
(w/o enclosures)